

DEC 19 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAIME OROZCO-SEGURA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72948

Agency No. A96-142-032

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted December 9, 2005
San Francisco, California

Before: TROTT, T.G. NELSON, and PAEZ, Circuit Judges.

Jaime Orozco-Segura petitions for review of the decision of the Board of Immigration Appeals (“BIA”), summarily affirming the immigration judge’s decision that Orozco-Segura was ineligible for cancellation of removal because he did not meet the “exceptional and extremely unusual hardship” requirement of 8

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

U.S.C. § 1229b(b)(1)(D). We have jurisdiction pursuant to 8 U.S.C. 1252(a)(2)(D) to review constitutional questions and questions of law in a petition for review.

We affirm.

We reach the merits of Orozco-Segura's statutory construction and due process claims because he was not required to exhaust these claims under 8 U.S.C. § 1252(d)(1). Although Orozco-Segura presents his arguments for the first time on appeal, these issues were "entirely foreclosed by prior BIA case law," Sun v. Ashcroft, 370 F.3d 932, 942 (9th Cir. 2004), and Orozco-Segura thus was not required to raise them before the BIA.

Orozco-Segura's statutory construction claim fails because we have previously held that the BIA's interpretation of the hardship requirement "comports with the statutory language and congressional intent." Ramirez-Perez v. Ashcroft, 336 F.3d 1001, 1006 (9th Cir. 2003). Orozco-Segura's due process claim similarly fails. Ramirez-Perez also held that the BIA's interpretation does not violate due process. Id. at 1006-07. Therefore, the petition for review is

DENIED.